THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.22996 of 2006

ORDER:

It is the case of the case of the petitioner that initially he was appointed as Deputy Engineer in the year 1985 in the respondent Company and thereafter promoted as Deputy General Manager and rendered unblemished service to the utmost satisfaction of one and all. While so, on 7.5.2006, his mother fell sick and Doctors advised him to make somebody for assistance. In view of attachment, love and affection towards his mother, petitioner submitted his resignation through letter dated 8.5.2006 to serve his mother. Due to his personal dedicated service and nursing, petitioner's mother recovered quickly from ill health. Therefore, petitioner decided to withdrew his resignation letter dated 8.5.2006 and accordingly, made a representation on 1.9.2006 requesting the respondents to permit him to join duty. However, all of a sudden, respondents, sent impugned letter dated 18.10.2006 to the petitioner enclosing cheque bearing No.349182 dated 23.9.2006 for Rs.3,74,539/-, towards final settlement, without making any reference as to withdrawal letter sent by the petitioner on 1.9.2006. According to the petitioner, his resignation letter dated 8.5.2006 was not accepted and he had already withdrawn resignation letter on 1.9.2006 before it was accepted on 18.10.2006. Therefore, the impugned order is arbitrary and illegal.

On behalf of respondents, a detailed counter affidavit has been filed denying the allegations made by the petitioner. It is stated that the petitioner while working as Deputy General Manager (Plant and Services/Engg. Services) submitted his resignation letter dated 8.5.2006 for the said post due to personal and domestic reasons and requested to relieve him with effect from 15.5.2006. Petitioner, thereafter stopped attending to duties from the next day i.e. 9.5.2006. The resignation submitted by petitioner is voluntary at his own will and accord. In the resignation letter, he has mentioned that he has to leave Hyderabad to go to his native place and requested to relieve him from duties with effect from 15.5.2006. As per procedure, the respondents

have obtained the approval of competent authority and the same was communicated to the petitioner vide letter dated 12.6.2006 stating that his resignation was accepted and he was relieved from services of the company as requested by him. Petitioner was also advised to contact the finance division for settlement of his accounts. Thereafter, petitioner account was settled and a cheque bearing No.349182 dated 23.9.2006 for an amount of Rs.3,74,539/- was sent along with his final statement of accounts through letter dated 18.10.2006. The finalisation of petitioner's account was taken considerable time as it requires to obtain no due certificate from various Departments and after obtaining the same, petitioner's account was finalized. In the meanwhile, management received petitioner's representation dated 1.9.2006 on 5.9.2006 withdrawing the resignation submitted by him through his letter dated 8.5.2006. Petitioner also contacted over phone about the representation submitted by him and he was informed that his resignation was accepted and he was already relieved from duties, therefore, it is not possible to consider his request. In spite of the same, petitioner returned the cheque bearing No.349182 dated 23.9.2006 for Rs.3,74,539/- through his letter dated 2.11.2006 stating that his representation dated 1.9.2006 was pending though he was informed that his request was rejected. Petitioner was informed once again through letter dated 13.11.2006 that the management accepted his resignation and he was relieved from the services of company with effect from 15.5.2006 as requested by him and his request for withdrawal of resignation was not accepted and in view of the same, the returned cheque was once again forwarded to the petitioner through letter dated 13.11.2006. Petitioner suppressed the said fact of acceptance of his resignation and that he was relieved from the services of the company, with effect from 15.5.2006, as requested by him through letter dated 12.6.2006. Thus, the petitioner has not approached this Court with true facts and therefore, he is not entitled to any relief as sought for. As per the office order No.HO/789/001 dated 14.6.1977, an employee once tenders his resignation cannot on his own accord withdraw the same and the withdrawal would require specific permission from the management. The non-acceptance of withdrawal of resignation by the management is neither illegal nor

violative of any rights of the petitioner.

Heard both sides and perused the material made available on record.

The learned counsel for petitioner strenuously contended that though the resignation was submitted by the petitioner on 8.5.2006 to be accepted with effect from 15.5.2006, that was never acted upon and the petitioner sent withdrawal letter on 1.9.2006. Instead of acting upon that, respondents, all of a sudden, sent impugned letter dated 18.10.2006 to the petitioner enclosing cheque bearing No.349182 dated 23.9.2006 for Rs.3,74,539/- towards final settlement of his account. In the said letter, respondents never indicated that the resignation of the petitioner was accepted on 12.6.2006 and communicated the same to him. Therefore, the contention of the respondents that they have accepted the resignation of the petitioner and the same was communicated to the petitioner vide letter dated 12.6.2006 is false and incorrect. Petitioner did not receive any such communication dated 12.6.2006. Therefore, it must be deemed that the resignation letter of the petitioner dated 8.5.2006 was never given effect to.

The learned counsel for respondents reiterated the stand taken in the counter and asserted that the resignation letter of the petitioner dated 8.5.2006 was accepted and the same was informed to him through letter dated 12.6.2006 stating that his resignation was accepted and he was relieved from the services of company with effect from 15.5.2006.

The fact remains that there was no assertion made by the respondents that the purported letter dated 12.6.2006, which is disputed by the petitioner, was communicated to him. In this regard, however, the learned counsel for respondents placed records before the Court stating that it was communicated. A bare look at the records would indicate that a note was placed before the General Manager and the General Manager expressed a doubt as to whether the petitioner was relieved from duties with effect from 15.5.2006 or not. In this regard, after making discussions, it was found that the petitioner was not relieved as on 10.6.2006. Therefore, the contention of the respondents that the petitioner was relieved from duties with effect

from 15.5.2006 cannot be said to be true. Further, the letter dated 12.6.2006 states that as the resignation letter of the petitioner is dated 8.5.2006 requesting to relieve him with effect from 15.5.2006, he stands relieved from the services of the company with effect from 15.5.2006. Absolutely there is no evidence to show that the letter dated 12.6.2006 was communicated to the petitioner either by registered post with acknowledgement due or otherwise. The learned counsel for respondents however, placed before the Court the dispatch register stating that the letter dated 12.6.2006 was dispatched to the petitioner. Less said the better insofar as maintaining dispatch register is concerned. The dispatch register does not show that any such letter dated 12.6.2006 was sent to the petitioner. This itself would show that absolutely there is no evidence to show that purported letter dated 12.6.2006 has been sent to the petitioner. The respondents have taken inconsistent stand contrary to their own records as to relieving of petitioner with effect from 15.5.2006. In fact, the endorsement of General Manager shows that the petitioner was not relieved as on 10.6.2006. Therefore, I am of the view that any amount of suspicion shrouds around the letter dated 12.6.2006 purported to relieve the petitioner from service on 15.5.2006 by accepting his resignation letter dated 8.5.2006. Therefore, it can be said that the said letter dated 12.6.2006 was never communicated to the petitioner. Once the petitioner withdrew his resignation on 1.9.2006, which was received by the respondents on 5.9.2006, it must be deemed that the petitioner withdrawn his resignation letter dated 8.5.2006 before passing the impugned order dated 18.10.2006. So long as resignation letter was not accepted or it was not given effect to, petitioner is entitled to withdraw the resignation tendered by him. Therefore, the impugned order is liable to be set aside.

In the result, the respondents are directed to reinstate the petitioner into service forthwith. However, in the facts and circumstances of the case, petitioner is not entitled for any wages for the period he was out of service applying the theory of ‘no work no pay’. However, petitioner is entitled for continuity of service for the purpose of seniority, promotion and for other attendant benefits.

The writ petition is allowed to the extent indicated above. There

shall be no order as to costs.

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C.V.RAMULU,
J

Date: .12.2007

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THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.22996 of 2006

.12.2007

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.22996 of 2006

Date: December, 2007

Between:

R.V.Umamaheswara Rao

.. Petitioner

And

The Chairman and Managing Director,
BEL (Bharat Electronics Limited),
Bangalore & others.

.. Respondents